

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

DATE: March 14, 2013

LEONARD DAVIS
Judge Presiding

Court Reporter: Shea Sloan

Law Clerk: Gabrielle LaHatte

Court Administrator: Rosa L Ferguson

VIRNETX INC.

V

CISCO SYSTEMS, INC.

**CIVIL ACTION NO: 6:10-CV-417
JURY TRIAL – DAY 8**

ATTORNEYS FOR PLAINTIFF

ATTORNEYS FOR DEFENDANTS

SEE SIGN-IN SHEETS

On this day, came the parties by their attorneys and the following proceedings were had:

OPEN: 9:00 am

ADJOURN: 2:25 pm

| TIME: | MINUTES: |
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| 9:00 am | Jury Deliberating. |
| 9:40 am | Trial resumed. Juror Note 8 received. Court read note to parties regarding display boards/demonstrative exhibits from Plaintiff and Defendant. The parties do not object. Court will take a brief recess to allow the parties to gather the exhibits. |
| 9:41 am | Court in recess. |
| 10:00 am | Court addressed the parties on the demonstratives. Mr. Cassady indicated they have the boards and the Plaintiff's Deck to send back. Mr. Cassady indicated they have VX-Dem 1-33. |
| | Mr. Desmarais indicated that have their boards together, but needs about 5 minutes to get the Defendant's deck together. |
| 10:05 am | Court in recess to allow parties to get Demonstratives together. |
| 10:12 pm. | Trial resumed. Court asked if the parties have their exhibits ready. Mr. Cassady responded. Mr. Desmarais responded. Court asked the parties to provide a list. Court proceeded with another matter. |
| 10:13 am | Court in recess. Jury deliberating. |
| 10:22 am | Jury Note 9 received. Court read notes to parties that Jury needs a break. Court asked parties to remain in the courtroom. Court inquired about the exhibits. Mr. Cassady responded. |
| 10:23 am | Court in recess. Jury deliberating. |
| 10:59 am | Trial resumed. Court inquired if exhibits are ready. Mr. Caldwell responded. Court |

| TIME: | MINUTES: |
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| | asked for a list or for counsel to read the numbers of Demonstratives going back. Mr. Caldwell read out the following: VX-DEM 9, 10, 11, 6, 4, 7, 8, 17, 5, 12, 13, 14, 15, 16, DX-C2031, 2030, 2029, 2033, 2032, 2037, 2035, 2027, 2026, 2028, 2034, 2036, 2013, 2012, 2011, 2014, 2010, 2009, 2008, 2000. Mr. Caldwell indicated one was not marked. Court instructed that one would not come in. Mr. Caldwell continued listed the following: VX-DEM 3, 23, 24, 25, 29. Mr. Cassidy listed VX-DEM 18 and then DX-C 2007. Court inquired if there were any objections, and without objections, those will be tendered to the Jury. |
| | Mr. Desmarais addressed the Court on the unmarked exhibits. Court addressed the parties. Mr. Caldwell objects to those not being marked. Mr. Desmarais indicated they were used or that the majority were used in front of the Jury and asked for more time. Court advised that if used as slide, and parties in agreement, then those would be sent in. Court asked that the ones listed previously be taken to Jury. |
| 11:05 am | Court in recess. |
| 12:20 pm | Jury Note 10 received. Clerk advised parties that Jury needed break and to remain in the courtroom until 12:50 pm. |
| 12:22 pm | Jury Note 11 received. |
| 12:55 pm | Trial resumed. Court addressed the parties and read Jury Note 11. Court considered note and tell them to continue deliberations or give Allen charge. At this point, court is inclined to give Allen charge. Court tendered a proposed instruction to the parties. |
| | Mr. Cawley requests that the instruction be given. Mr. Desmarais objects due to it being premature because Jury has not been deliberating that long. Court stated reasons and overrules objection. Court asked for Jury to be brought in the courtroom. |
| | Jury seated in the courtroom. |
| | Court gave the Jury an Allen Charge and instructions. |
| 1:10 pm | Court excused the Jury to continue deliberations. |
| 1:10 pm | Court in recess. Jury deliberating. |
| 1:15 pm | Jury Note 11B received. |
| 1:15 pm | Trial resumed. Court read the Jury Note 11B to the parties. Court intends to respond that those were not marked as Demonstrative and cannot be sent to you. Mr. Desmarais addressed the Court and some of those were used, but a sticker did not get on them. Court asked the parties if they could come to an agreement on the 8 ½ X 11 copies, he would agree to let in. |
| 1:18 pm | Court in recess. |
| 1:50 pm | Jury Note #12 received. (Not on record). Court read note and jury needs break. Court asked parties to remain in courtroom until 2:15 pm and clear hallways. |
| 1:50 pm | Court in recess. |
| 2:15 pm | Jury Note 13 received. Court addressed the parties that a Verdict has been reached. |
| | Court admonished the parties and those in attendance to not outcry when verdict read. Court asked the Jury to be brought in. |
| | Jury seated in the courtroom. |
| | Court addressed jury and inquired if they have reached a verdict. Jury foreperson responded. Verdict form tendered to the Court. |
| | Court addressed the jury and thanked them for their service. Court addressed the |

| TIME: | MINUTES: |
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| | Jury regarding their certificates and read them. Court asked Clerk to tender the certificates to the Jury. |
| | Court addressed the Jury regarding questionnaires and to remain. |
| | Court asked Clerk to read the verdict. Verdict read. Court inquired if the parties wished to poll the jury. No polling requested. |
| | Court addressed the jury and gave them further instructions. Court excused the jury to the jury room where someone would be there to excuse them. |
| | Jury excused from the courtroom. |
| 2:20 pm | Court addressed the parties. Nothing further from the parties. |
| | Court gave instructions to the parties. |
| 2:25 pm | There being nothing further, Court adjourned. |